

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

v.

BEACHSIDE ROOFING, LLC,

Respondent.

CASE NO. OSH 2006-19

ORDER NO. 208

PRETRIAL ORDER AND NOTICE OF
STATUS CONFERENCE

PRETRIAL ORDER AND NOTICE OF STATUS CONFERENCE

Pursuant to the initial conference in this matter held by conference call by the Hawaii Labor Relations Board ("Board") on September 21, 2006, and attended by Leo B. Young, Deputy Attorney General, for Complainant, and Andrew Finn, Projects Manager, for Respondent, IT IS HEREBY ORDERED THAT:

1. The parties stipulated that the facts underlying Citation 1, Item 1, 29 CFR 1926.501(b)(10) (failing to have fall protection) occurred; that the facts underlying Citation 1, Item 2, 29 CFR 1926.1053(b)(1) (failing to have side rails of a portable ladder extended at least three feet above the upper landing surface) occurred; and accordingly, the issues to be determined at trial are:
 - (1) With respect to Citation 1, Item 1, whether Respondent established the affirmative defense of employee misconduct, and if not, whether the "repeat" characterization and the \$10,000 penalty are proper.
 - (2) With respect to Citation 1, Item 2, whether Respondent established the affirmative defense of employee misconduct, and if not, whether the "repeat" characterization and the \$2,000 penalty are proper.
2. Because the parties agreed to attempt to settle this matter, the trial date and discovery and other deadlines were not scheduled at the Initial Conference. Should the parties are unable to reach a settlement, the Board will schedule

the trial date, the deadline for identification of live witnesses, and the discovery cut-off date at the status conference to be held on December 22, 2006 at 9:00 a.m.

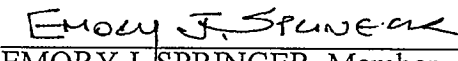
3. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

Further, NOTICE IS HEREBY GIVEN that the Board will conduct a status conference in the above-entitled case on December 22, 2006, at 9:00 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

DATED: Honolulu, Hawaii, September 22, 2006.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


EMORY J. SPRINGER, Member


SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Leo B. Young, Deputy Attorney General
Andrew Finn